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(b)(3)

MEMORANDUM FOR: See Distribution

FROM: [redacted] (b)(3)
Liaison Division, O[redacted]

VIA: Chief, Liaison Division, OLL

SUBJECT: Chandler Supplemental Retirement Bill

1. Attached hereto is H.R. 2869, the "Federal Annuity and Investment Reform Act of 1985." This bill, introduced by Rep. Rod Chandler (R., WA), has been referred jointly to the Committees on Education and Labor, Post Office and Civil Service, and Ways and Means.

2. This legislation, intended as the supplemental retirement plan for post-1983 employees, is not endorsed by the Post Office, Civil Service Committee and is not the bases for retirement legislation now being drafted by the Committee. As long as this is the case, state Committee staffers, the Chandler bill is dead.

3. Senate staffers working on retirement legislation for Senator Stevens (R., AK) have not bothered to read the bill. House and Senate Members and staffers who are interested in Federal retirement are not taking the bill seriously.

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99TH CONGRESS
1ST SESSION

H. R. 2869

To improve the benefit structure, comparability, and financial soundness of the retirement and disability programs for the civilian employees of the Federal Government by requiring full actuarial funding of the Civil Service Retirement and Disability System, by establishing a more equitable and portable retirement structure for post-83 employees under a new Federal Thrift Plan with matching employer contributions and a revised set of defined benefits under the Civil Service Retirement and Disability System, taking into account benefits otherwise provided under the old-age, survivors, and disability insurance program under title II of the Social Security Act, and by providing a more defensible benefit structure as it relates to early retirement, cost-of-living adjustments, and deferred benefits for separated employees.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 1985

Mr. CHANDLER introduced the following bill; which was referred jointly to the Committees on Education and Labor, Post Office and Civil Service, and Ways and Means

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A BILL

To improve the benefit structure, comparability, and financial soundness of the retirement and disability programs for the civilian employees of the Federal Government by requiring full actuarial funding of the Civil Service Retirement and Disability System, by establishing a more equitable and portable retirement structure for post-83 employees under a new Federal Thrift Plan with matching employer contributions and a revised set of defined benefits under the Civil Service Retirement and Disability System, taking into ac-

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count benefits otherwise provided under the old-age, survivors, and disability insurance program under title II of the Social Security Act, and by providing a more defensible benefit structure as it relates to early retirement, cost-of-living adjustments, and deferred benefits for separated employees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Federal Annuity and Investment Reform Act of 1985".

(b) The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Statement of purposes.

TITLE I—FEDERAL THRIFT PLAN

Sec. 101. Establishment.
Sec. 102. Effective date; transition provisions.

TITLE II—FEDERAL EMPLOYEE RETIREMENT AND DISABILITY SYSTEM

PART A—COVERAGE

Sec. 201. Definition of post-83 employee.
Sec. 202. Exclusion of new Postal Service employees subject to new collectively bargained plans.
Sec. 203. Exclusion of new employees of the District of Columbia.

PART B—CONTRIBUTIONS TO THE CIVIL SERVICE RETIREMENT AND DISABILITY FUND AND MAINTENANCE OF FINANCIAL INTEGRITY OF SUCH FUND

Sec. 211. Contributions.
Sec. 212. Maintenance of Fund financial integrity.

PART C—INVESTMENT OF CONTRIBUTIONS AND DEDUCTIONS

Sec. 221. Investment board.
Sec. 222. Investment advisory panel.

PART D—PRIMARY PROGRAM BENEFITS

Sec. 231. Reduction for early retirement.

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Sec. 232. Benefit formula to be 1.2 per centum per year for post-83 employees.
Sec. 233. Elimination of minimum annuity for post-83 employees.
Sec. 234. Separated employee's lump-sum credit to be rolled-over into thrift plan.
Sec. 235. Option for certain post-83 employees to transfer the value of their defined benefit into thrift plan.
Sec. 236. Cost-of-living adjustment limitation for post-83 employees.
Sec. 237. Benefit leveling option for post-83 employees.

PART E—SURVIVOR BENEFITS

Sec. 241. Election of survivor annuity by employees eligible for deferred annuity.
Sec. 242. Computation of benefits for survivors of post-83 employees.

PART F—DISABILITY ANNUITIES

Sec. 251. Entitlement to disability annuities.
Sec. 252. Computation of disability annuities for post-83 employees.
Sec. 253. Application for social security disability required for post-83 employees.
Sec. 254. Offset of social security disability annuity for post-83 employees.
Sec. 255. Limitation of disability annuity based on earnings and former pay for post-83 employees.
Sec. 256. Rehabilitation pilot program.
Sec. 257. Insurance carrier coverage for certain disabilities.

TITLE III—AMENDMENTS TO ERISA, THE SOCIAL SECURITY ACT, AND THE INTERNAL REVENUE CODE OF 1954

Sec. 301. Coverage under ERISA and related Internal Revenue Code provisions of Postal Service plans for employees not covered under civil service retirement.
Sec. 302. Coverage under title II of the Social Security Act of Federal employees electing treatment as post-83 employees; exemption from windfall benefit reductions for employees with ten years of service.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Responsibility for administering certain retirement programs.

STATEMENT OF PURPOSES

SEC. 2. The purposes of this Act are—

(1) to provide Federal employees with a supplemental staff retirement program coordinated with Social Security which is comparable to good retirement programs operated by major employers in the private and State and local government sectors in order (A) that the Federal Government will remain competitive with other employers with which it must compete for

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qualified employees, and (B) that retirement program and Social Security benefits combined will provide a reasonable level of benefit adequacy at all preretirement income levels;

(2) to provide Federal employees with enhanced portability of retirement benefits which will permit greater flexibility in retirement planning and which will instill in the system a greater measure of equity as between short-service and long-service employees;

(3) to strengthen the financing of the Civil Service Retirement and Disability System by maintaining the one system for both old and new employees, by requiring full dynamic normal costs to be contributed, by requiring that employer contributions amortize initial unfunded liabilities over forty years as a level percentage of payroll, by providing the opportunity for enhanced investment earnings of the system, and by requiring increased employer contributions if otherwise necessary to prevent system funding from falling below the current level;

(4) to encourage individual retirement savings and to promote flexibility in retirement planning by providing to all Federal employees access to individual thrift retirement accounts (TRA's) in which they have a free market choice of investment and in which there is full

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immediate vesting of employee contributions and (for new employees) employer matching contributions up to 3 percent of basic pay;

(5) to restore the defensibility of Federal employee retirement benefits and maintain the affordability of the Civil Service Retirement and Disability System by providing for a more rational benefit structure, particularly as it relates to early retirement and post-retirement cost-of-living adjustments;

(6) to provide a revised retirement program structure which is not disruptive to the present system of providing benefits, which is relatively simple to administer, and which is easily understood by employees; and

(7) to provide for comparability between the retirement programs of current employees and post-83 employees with respect to—

(A) contributions made by and benefits received by such employees, and

(B) the employer normal costs, computed on a dynamic basis for such employees, for all retirement and disability benefits for which such employees may be eligible under the Civil Service Retirement and Disability System, the old-age, survivors, and disability insurance system, and the Federal Thrift Plan.

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TITLE I—FEDERAL THRIFT PLAN

ESTABLISHMENT

SEC. 101. (a)(1) Chapter 83 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER IV—FEDERAL THRIFT PLAN

"§ 8361. Definitions

"For purposes of this subchapter—

"(1) 'participant' means an individual who is an employee, a Member, or a former employee or Member;

"(2) 'active participant' means an employee or Member;

"(3) 'employee' means—

"(A) an employee as defined by section 8331(1) of this title;

"(B) a justice or judge of the United States as defined by section 451 of title 28;

"(C) an employee covered by a Federal Government pension plan other than under subchapter III of this chapter; and

"(D) an officer or employee of the United States Postal Service (other than one of the Governors), or of the Postal Rate Commission;

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except that it does not include an employee covered by a defined contribution plan established or maintained by the United States other than under this subchapter;

"(4) 'Member' means a Member of Congress as defined by section 2106 of this title;

"(5) 'post-83 employee' has the meaning given that term by section 8331(23) of this title;

"(6) 'Board' means the Federal Thrift Plan Board established by section 8368 of this title;

"(7) 'thrift plan' means the Federal Thrift Plan;

"(8) 'thrift retirement account' or 'account', when used with respect to a participant or beneficiary, means an account established and maintained for such participant or beneficiary in a qualified investment program or the Federal Fund under this subchapter;

"(9) 'basic pay', when used with respect to an active participant, means the basic pay of the participant established pursuant to law, subject to any provision of law limiting the amount of basic pay actually payable in any year, including any provision of law restricting the use of appropriated funds;

"(10) 'pension asset manager' includes, but is not limited to—

"(A) a bank which—

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"(i) has the power to manage, acquire, or dispose of assets in a manner and to an extent necessary for maintaining a qualified investment program; and

"(ii) has, as of the last day of its most recent fiscal year, equity capital in excess of $1,000,000;

"(B) a savings and loan association which—

"(i) has made application for and been granted, by a State or Federal authority having supervision over savings and loan associations, trust powers to manage, acquire, or dispose of assets in a manner and to an extent necessary for maintaining a qualified investment program;

"(ii) has, as of the last day of its most recent fiscal year, equity capital or net worth in excess of $1,000,000; and

"(iii) is an insured institution within the meaning of section 401(a)(1) of the National Housing Act;

"(C) an insurance company which—

"(i) is qualified under the laws of more than one State to manage, acquire, or dispose of assets in a manner and to an extent

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necessary for maintaining a qualified investment program; and

"(ii) has, as of the last day of its most recent fiscal year, net worth in excess of $1,000,000;

"(D)(i) an investment adviser which—

"(I) has, as of the last day of its most recent fiscal year, total client assets under its management and control in excess of $50,000,000; and

"(II) meets the equity requirements of clause (ii);

"(ii) an investment adviser meets the equity requirements of this clause if—

"(I) such investment adviser has shareholders' or partners' equity in excess of $750,000, or

"(II) payment of all of such investment adviser's liabilities which may arise by reason of a breach or violation of a duty under paragraph (2), (3), or (4) of section 8365(b) of this title is unconditionally guaranteed by a person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common

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control with such investment adviser, if the investment adviser and such person have, as of the last day of their most recent fiscal year, shareholders' or partners' equity, in the aggregate, in excess of $750,000; a person described in subparagraph (A), (B), or (C) of this paragraph; or a broker-dealer registered under the Securities Exchange Act of 1934 which has, as of the last day of its most recent fiscal year, a net worth in excess of $750,000;

"(11) 'State' has the meaning given that term by section 3(10) of ERISA;

"(12) 'beneficiary' means an individual designated by a participant under the thrift plan who is or may become entitled to a benefit under such plan by being so designated;

"(13) 'plan year' means a calendar year, fiscal year, or other period of 12 consecutive months, as prescribed by the Board;

"(14) 'defined contribution plan' has the meaning given that term by section 3(34) of ERISA;

"(15) 'employee benefit plan' has the meaning given that term by section 3(3) of ERISA;

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"(16) 'Federal Government pension plan' means a Government pension plan, as defined by section 9502(1) of title 31;

"(17) 'ERISA' means the Employee Retirement Income Security Act of 1974;

"(18) 'Federal Fund' refers to the fund established under section 8366 of this title;

"(19) 'control' means the power to exercise a controlling influence over the management or policies of a person other than an individual;

"(20) 'equity capital' means common or preferred stock, surplus, undivided profits, contingency reserves, and other capital reserves;

"(21) 'net worth' means capital, paid-in and contributed surplus, unassigned surplus, contingency reserves, group contingency reserves, and special reserves; and

"(22) 'shareholders' or partners' equity' means the equity shown in the most recent balance sheet prepared in accordance with generally accepted accounting principles.

"§ 8362. Establishment

"The provisions of this subchapter comprise the Federal Thrift Plan.

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"§ 8363. Contributions and transfers

"(a)(1) An active participant may elect, in accordance with such procedures as the Board may by regulation prescribe, to contribute in any plan year an amount not to exceed the lesser of 10 percent of the participant's basic pay for such year or $6,000.

"(2) An employing agency shall deduct and withhold from the basic pay of the active participant involved the percentage or amount of basic pay designated in an election made under paragraph (1).

"(3) Amounts deducted and withheld under this subsection shall be deposited at the end of each pay period of the active participant to the credit of the thrift retirement account then currently designated under subsection (c).

"(b)(1) Subject to paragraphs (3) and (5), the employing agency of an active participant who is a post-83 employee and who contributes to a thrift retirement account under subsection (a) in any plan year shall, during such plan year, contribute to a thrift retirement account established and maintained for the participant within the Federal Fund an amount equal to the amount determined under paragraph (2).

"(2) The aggregate contribution of an employing agency in a plan year equals the aggregate amount contributed by the active participant involved under subsection (a) during such plan year or 3 percent of such participant's basic pay for such year, whichever is less.

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"(3)(A) Except as provided in subparagraph (B), contributions under this subsection for the benefit of an active participant shall be made only for periods in years of service completed by the active participant after such active participant's first year of service beginning after December 31, 1983. For purposes of this subparagraph, any year of service immediately following a break in service (as defined in regulations of the Board) shall be treated as a first year of service.

"(B) A contribution under this subsection shall be made for a period of service less than a year of service—

"(i) if—

"(I) the active participant concerned would otherwise qualify for a contribution under this subsection; and

"(II) the break in service is due to the active participant's death, or an event which makes the active participant eligible for retirement or disability benefits under another Federal Government pension plan; and

"(ii) under such other circumstances as the Board may by regulation prescribe.

"(C) For purposes of this paragraph, a 'year of service' is a 12-month period, as defined in regulations prescribed by the Board (which regulations may provide for treatment of

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breaks in service in a manner considered appropriate by the Board for the effective administration of this subchapter).

"(4) Amounts contributed by an employing agency under this subsection shall be paid from the appropriation or fund used to pay the employee or, in the case of an elected official, from an appropriation or fund available for payment of other salaries of the same office or establishment. When an employee in the legislative branch is paid by the Clerk of the House of Representatives, the Clerk may pay from the contingent fund of the House the contribution that otherwise would be contributed from the appropriation or fund used to pay the employee.

"(5) In the case of an active participant who is employed by two or more agencies during a plan year, contributions under this subsection shall be allocated to, and paid from, appropriations or funds of the respective agencies under regulations prescribed by the Board.

"(6) Contributions under this subsection for the benefit of an active participant shall be made in accordance with such procedures as the Board may by regulation prescribe.

"(c)(1) Any amounts contributed under subsection (a) shall be deposited to the credit of the participant in an account in a qualified investment program or in the Federal Fund, as designated by the participant under regulations prescribed by the Board.

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"(2) Any participant for whom an account is established and maintained to receive amounts contributed under subsection (a) pursuant to a designation made under this subsection may elect, at the times and under the conditions prescribed by the Board, to change such designation at least once during each plan year.

"(d) Any amount in an account (other than any amount attributable to a contribution under subsection (b)) established and maintained for the benefit of a participant or beneficiary under this subchapter shall be transferred to any other such account (irrespective of whether such other account is within the same qualified investment program as, or a qualified investment program other than, the one from which such amount is so transferred) upon written application of such participant or beneficiary (as the case may be), subject to applicable restrictions or conditions under the programs involved.

"(e) A qualifying rollover distribution (within the meaning of section 402(a)(5)(D)(i) of the Internal Revenue Code of 1954) may be transferred and deposited to the credit of a thrift retirement account subject to section 402(a) of the Internal Revenue Code of 1954.

"(f)(1) A trustee of a plan meeting the requirements of section 401(a) of the Internal Revenue Code of 1954 (other than the Federal Thrift Plan), at the direction of any partici-

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pant or beneficiary under the plan and to the extent permitted under the terms of the plan, shall transfer and deposit to the credit of a thrift retirement account established or maintained on behalf of such participant or beneficiary all assets attributable to benefits of such participant or beneficiary under such plan which are nonforfeitable under such plan.

"(2) Transfers by the Fund Investment Board from the Civil Service Retirement and Disability Trust Fund to thrift retirement accounts shall be carried out as provided in subsection (a) or (k) of section 8342 of this title, as the case may be.

"(g)(1) For purposes of the Internal Revenue Code of 1954, any amount deducted and withheld from the basic pay of an active participant under subsection (a), and any contribution of an employing agency under subsection (b), shall be excluded from the gross income of such participant.

"(2) Paragraph (1) shall not apply to any portion of the excess of—

"(A) the amount deducted and withheld under subsection (a) for a plan year with respect to an active participant, over

"(B) 3 percent of the participant's basic pay for such plan year,

if the participant elects not to have paragraph (1) apply with respect to such portion.

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"§ 8364. Information to employees

"The Board shall prescribe regulations under which there may be made available to individuals eligible to participate in the Federal Thrift Plan such information (in a form acceptable to the Board after appropriate consultation with representatives of the pension asset managers concerned) as may be necessary to enable such individuals to make informed decisions with respect to the qualified investment programs available under this subchapter and the Federal Fund.

"§ 8365. Qualified investment programs

"(a) An investment program shall be considered to be a qualified investment program for purposes of this subchapter if it satisfies the requirements prescribed under subsection (b).

"(b) The Board shall prescribe regulations providing that—

"(1) an investment program shall be established and maintained by a pension asset manager;

"(2) an investment program shall be operated for the exclusive purpose of—

"(A) providing benefits to participants and their beneficiaries; and

"(B) defraying reasonable expenses of administering such program;

"(3)(A) an investment program shall comply with such requirements as the Board shall by regulation prescribe to safeguard the interests of participants and

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their beneficiaries, and the provisions of ERISA set forth in subparagraph (B) shall apply with respect to such program as if such program were an employee benefit plan covered by ERISA;

"(B) the applicable provisions under this subparagraph are sections 206(d), 401(b), 404, 405, 406(b), 408, 409, 410, 413, 502(a)(1)(B), 502(a)(2), 502(a)(3), 502(a)(5), 502(e), 502(f), 502(h), 502(i), 502(k), and 504 of ERISA;

"(C)(i) subject to clause (ii), investments under any such program may include—

"(I) securities;

"(II) guaranteed income contracts;

"(III) Federally insured deposits or accounts; and

"(IV) other options, including investments in pooled funds, not specifically disapproved by the Board by regulation;

"(ii) investments under any such program may not include—

"(I) collectibles (within the meaning of section 408(m)(2) of the Internal Revenue Code of 1954); and

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"(II) life insurance contracts (within the meaning of section 408(a)(3) of the Internal Revenue Code of 1954);

"(4)(A) information relating to the status of each account of a participant shall be provided at least annually to such participant (or each beneficiary of such participant, as the case may be) and a summary plan description shall be provided to such participant (or beneficiary, as the case may be) in accordance with provisions comparable to those applicable with respect to employee benefit plans under part 1 of subtitle B of title I of ERISA (relating to reporting and disclosure); and

"(B) any such summary plan description or other information relating to the investment program shall be provided to the Board in such form and under such circumstances as the Board may by regulation require;

"(5) upon appropriate written application, amounts in a thrift retirement account shall be distributable (under the terms of the investment program involved)—

"(A) to a participant—

"(i) if such participant is eligible for disability or retirement benefits under another Federal Government pension plan or workers

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compensation program of the Federal Government; or

"(ii) if such participant has attained age 59½;

"(B) in the event of the participant's death, to each surviving beneficiary; or

"(C) to a Retirement Universal Security Arrangement under title V of ERISA if such participant has been separated from the service for at least 31 consecutive days;

"(6) upon appropriate written application, amounts in a thrift retirement account attributable to contributions made by the participant may, if such amounts were not excluded from gross income as a result of an election under section 8363(g)(2) of this title, be distributed to such participant subject to such terms and conditions as the Board may prescribe—

"(A) for purposes of buying an automobile or a home, or paying educational expenses (as defined under regulations prescribed by the Board); or

"(B) for any other purpose if an event referred to in paragraph (5)(A) occurs, or in the event of hardship (as defined under regulations prescribed by the Board); and

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"(7) upon appropriate written application, and subject to such terms and conditions as the Board may by regulation prescribe, a participant described in paragraph (5)(A)(i) may designate that all or any portion of the amounts in an account attributable to contributions made by the participant be applied towards purchasing an additional annuity, as provided under subsection (d).

"(c)(1) The rights of a participant or beneficiary with respect to any amounts in a thrift retirement account maintained for such participant or beneficiary under this section or section 8366 of this title shall be nonforfeitable.

"(2) For purposes of this subsection, the term 'nonforfeitable', as used with respect to an amount in a thrift retirement account, has the same meaning as such term has under the first sentence of section 3(19) of ERISA when used with respect to a pension benefit or right.

"(d)(1) The Office of Personnel Management shall provide, under regulations prescribed by the Office, for annuities which shall be in addition to the disability or retirement benefits referred to in subsection (b)(5)(A)(i).

"(2) The types of annuities available under this subsection shall include annuities for fixed terms of years, annuities for the lives of the employee or Member and the spouse of that individual (which annuity shall automatically be provided in the case of a married employee or Member purchasing an

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additional annuity under this subsection, unless jointly waived by the employee or Member and the spouse of that individual), annuities for the lives of the employee or Member and an individual having an insurable interest in that individual, and annuities the amount of which would increase by a fixed percentage each year.

"(3) The cost and the amount of an additional annuity under this subsection shall be determined in accordance with generally accepted actuarial principles and standards, and without regard to sex.

"§ 8366. Federal Fund

"(a) There is in the Treasury of the United States a Federal Fund, which shall be administered by the Board.

"(b) Under regulations prescribed by the Board, the Federal Fund shall be operated and maintained in a manner consistent with paragraphs (2)(A), (3), (4), (5), (6), and (7) of section 8365(b) of this title.

"(c) Amounts in the Federal Fund shall be invested in obligations having maturities selected with due regard for the needs of the Fund and bearing interest at a rate equal to the rate then most recently determined under section 8348(c)(2) of this title.

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"§ 8367. Enforcement

"(a)(1) The Board may, with respect to an investment program and in accordance with regulations prescribed by the Board—

"(A) exercise any investigative or civil enforcement authority available to the Secretary of Labor under part 5 of subtitle B of title I of ERISA with respect to an employee benefit plan; or

"(B) bring a civil action to seek an injunction, or to obtain other equitable relief, if such an action would be permitted in those circumstances in the case of a fiduciary under section 502(a)(3) of ERISA with respect to an employee benefit plan.

"(2) The courts of the United States shall have jurisdiction with respect to actions brought by the Board under this section to the same extent that they have jurisdiction with respect to actions brought by the Secretary of Labor or a fiduciary under the applicable provisions of ERISA referred to in paragraph (1) of this subsection.

"(b)(1) In order to carry out its functions under this section, the Board may utilize, on a reimbursable or other basis, the facilities or services of any Federal agency (including the services of any of such agency's employees) with the lawful consent of such agency.

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"(2) Each Federal agency shall cooperate with the Board and, to the extent permitted by law, provide any assistance or information which the Board may request.

"§ 8368. Audits

"Chapter 95 of title 31, United States Code, relating to Government pension plan protection, applies to the Federal Thrift Plan.

"§ 8369. Federal Thrift Plan Board

"(a) There is established a board of trustees to be known as the Federal Thrift Plan Board.

"(b)(1) The Board shall consist of—

"(A) the Director of the Office of Personnel Management (or the Director's delegate);

"(B) the Secretary of the Treasury (or the Secretary's delegate); and

"(C) the Director of the Office of Management and Budget (or the Director's delegate).

"(2) The Director of the Office of Personnel Management (or the Director's delegate) shall serve as Chairman.

"(c) The Board shall carry out the duties and responsibilities assigned, and may exercise any authority granted, to it under this subchapter.

"§ 8370. Regulations

"The Board shall prescribe any regulations necessary to carry out the provisions of this subchapter. The regulations

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so prescribed shall include a uniform schedule of fees to cover the administrative costs involved in processing an application to have an investment program considered a qualified investment program under this subchapter.

"§ 8371. Coordination

"For purposes of the Internal Revenue Code of 1954, any provision of such Code to the contrary notwithstanding, the Federal Thrift Plan—

"(1) shall be considered to be a trust—

"(A) which meets the requirements for qualification applicable to trusts under subsections (a) and (k) of section 401 of such Code; and

"(B) which is exempt from taxation under section 501(a) of such Code; and

"(2) shall be considered to be a plan which meets the requirements for qualification applicable to plans under subsections (a) and (k) of section 401 of such Code.

"§ 8372. Appropriation

"There is hereby appropriated to each employing agency with respect to which an authorization for appropriations is otherwise provided by law such sums as are necessary from time to time to meet the requirements of section 8363(b) of this title.".

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(2) The analysis for chapter 83 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER IV—FEDERAL THRIFT PLAN

"Sec.
"8361. Definitions.
"8362. Establishment.
"8363. Contributions and transfers.
"8364. Information to employees.
"8365. Qualified investment programs.
"8366. Federal Fund.
"8367. Enforcement.
"8368. Audits.
"8369. Federal Thrift Plan Board.
"8370. Regulations.
"8371. Coordination.
"8372. Appropriation.".

(b) Section 8348(a)(2) of title 5, United States Code, is amended by inserting "or the Federal Thrift Plan Board" after "Office".

EFFECTIVE DATE; TRANSITION PROVISIONS

SEC. 102. (a)(1) The amendments made by this title shall take effect on the date of the enactment of this Act.

(2) Any actions required in order to make the Federal Fund (under section 8366 of title 5, United States Code, as added by this title) operational shall be completed at the earliest practicable date, but not later than January 1, 1986.

(3) Any regulations and actions required to carry out those provisions of subchapter IV of chapter 83 of title 5, United States Code, as added by this title, which relate to qualified investment programs shall be completed in time to permit such provisions to become operational beginning no later than January 1, 1988.

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(b)(1) Any amounts deducted from the pay of an individual under section 204(a) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1107) shall, in accordance with regulations prescribed by the appropriate agency head, be transferred from the fund into which such amounts were paid under such section to a thrift retirement account in the Federal Fund for such individual.

(2) Any amounts transferred under paragraph (1) during any year shall not be considered for purposes of applying section 8363(a)(1) of title 5, United States Code, as added by this title, relating to maximum annual contributions, with respect to such year.

(3) For purposes of this subsection—

(A) the term "covered retirement system" has the meaning given such term by section 203(a)(2) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1107); and

(B) the term "appropriate agency head" has the meaning given such term by section 205(a)(2) of such Act (97 Stat. 1108).

(4) For purposes of subchapter IV of chapter 83 of title 5, United States Code, as added by this Act, any amount transferred under paragraph (1) shall be treated as if it were

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a contribution by a participant for which an election under section 8363(g)(2) of this title was made.

(c) Except as provided in subsection (b), no amount may be credited to any account under subchapter IV of chapter 83 of title 5, United States Code, as added by this Act, if such amount is attributable to a period of service commencing before January 1, 1986.

TITLE II—FEDERAL EMPLOYEE RETIREMENT AND DISABILITY SYSTEM

PART A—COVERAGE

DEFINITION OF POST-83 EMPLOYEE

SEC. 201. Section 8331 of title 5, United States Code, is amended by striking out "and" and the end of paragraph (21), by striking out the period at the end of paragraph (22) and inserting "; and" in lieu thereof, and by adding at the end thereof the following new paragraph:

"(23) 'post-83 employee' means—

"(A) any employee whose service is covered by the Social Security Act by reason of the amendments made by the Social Security Act Amendments of 1983 to section 210(a) (5) and (6) of the Social Security Act (except an employee described in subparagraph (C)(i));

"(B) any Member who makes an irrevocable election (in such form and manner as shall be pre-

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scribed by the Director of the Office of Personnel Management) to be treated as a post-83 employee, if such election is made within 1 year after the individual becomes a Member (or made before January 1, 1986, if later);

"(C) any employee who (i) is a law enforcement officer, firefighter, air traffic controller, Congressional employee, a person described in section 210(a)(5)(B)(ii) of the Social Security Act who is an employee on December 31, 1983, a person described in section 210(a)(5)(B)(iii) of such Act, or in any other category to which special rules apply under this subchapter (as determined by the Director of the Office of Personnel Management) and (ii) makes an irrevocable election (in such form and manner as shall be prescribed by the Director) to be treated as a post-83 employee; and

"(D) any other employee not described in subparagraphs (A), (B), and (C), who makes an irrevocable election (in such form and manner as shall be prescribed by the Director) to be treated as a post-83 employee.

Any individual or class of individuals who are post-83 employees shall not be considered employees (as defined in paragraph (1)) or Members (as defined in paragraph (2)) for pur-

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poses of the remaining provisions of this subchapter except to the extent the Director determines, by rule, that the individual or class should be considered employees or Members in order to carry out the purposes of the Federal Annuity and Investment Reform Act of 1985, taking into consideration fairness, equity, and the fiscal integrity of the Fund.".

EXCLUSION OF NEW POSTAL SERVICE EMPLOYEES SUBJECT TO NEW COLLECTIVELY BARGAINED PLANS

SEC. 202. Section 1005(d) of title 39, United States Code, is amended to read as follows:

"(d)(1) Except as provided in paragraph (2) of this subsection, officers and employees of the Postal Service (other than the Governors) who have been continuously in the employ of the Postal Service since December 31, 1983, shall be covered by subchapter III of chapter 83 of title 5 relating to civil service retirement. Determinations under the preceding sentence regarding continuity of service shall be made in accordance with section 210(a)(5)(B) of the Social Security Act. The Postal Service shall, with respect to such officers and employees, withhold from pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in such subchapter III. The Postal Service, upon request of the Office of Personnel Management, but not less frequently than annually, shall pay to the Office the costs reasonably related to the administration of Fund activities for such officers and employees.

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"(2) The Office of Personnel Management may, on the request of the Postal Service, provide by regulation for the transfer of some or all of the accrued and future benefits under the Civil Service Retirement and Disability System of officers and employees referred to in paragraph (1) of this subsection to a pension plan established for such officers and employees by the Postal Service in accordance with this chapter and chapter 12 of this title. Such regulations shall take effect upon approval thereof by the Postal Service. There is hereby appropriated, upon any such transfer of benefits, from the Civil Service Retirement and Disability Fund to the Postal Service for deposit in such pension plan the amounts (determined under such regulations) which are attributable to the benefits transferred. Coverage under subchapter III of chapter 83 of title 5, United States Code, of any such officers and employees whose benefits are so transferred shall terminate to the extent of any such benefits transferred.".

EXCLUSION OF NEW EMPLOYEES OF THE DISTRICT OF COLUMBIA

SEC. 203. Section 8331(1)(G) of title 5, United States Code, is amended to read as follows:

"(G) an individual employed continuously since December 31, 1983, by the government of the District of Columbia, determined in accord-

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ance with section 210(a)(5)(B) of the Social Security Act;".

PART B—CONTRIBUTIONS TO THE CIVIL SERVICE RETIREMENT AND DISABILITY FUND AND MAINTENANCE OF FINANCIAL INTEGRITY OF SUCH FUND CONTRIBUTIONS

SEC. 211. (a)(1) Section 8334(a) of title 5, United States Code, relating to contributions, is amended by redesignating paragraph (2) as paragraph (4) and by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(a)(1) In the case of an individual who is an employee or Member (and is not a post-83 employee), the employing agency shall deduct and withhold from such individual's basic pay 7 percent in the case of an employee (other than a Congressional employee, law enforcement officer, or firefighter), 7.5 percent in the case of a Congressional employee, law enforcement officer, or firefighter, and 8 percent in the case of a Member.

"(2) The employing agency shall make no deduction from the basic pay of a post-83 employee.

"(3) An amount determined under section 8349 of this title with respect to each individual who is an employee, Member, or post-83 employee shall be contributed from the appropriation or fund used to pay the individual or, in the

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case of an elected official, from an appropriation or fund available for payment of other salaries of the same office or establishment. When an employee or post-83 employee in the legislative branch is paid by the Clerk of the House of Representatives, the Clerk may pay from the contingent fund of the House the contribution that otherwise would be contributed from the appropriation or fund used to pay the employee.".

(2) Notwithstanding the first sentence of paragraph (3) of section 8334(a) of title 5, United States Code (as amended by this subsection), in the case of pay periods ending during any fiscal year preceding the first fiscal year for which the regulations prescribed under section 8349(a) of such title are effective—

(A) the amount required to be contributed under such paragraph (3) with respect to each employee or Member, shall be an amount equal to the amount deducted and withheld from the basic pay of such employee or Member under paragraph (1) of such section 8334(a) for such pay periods, and

(B) the amount required to be contributed under such paragraph (3) with respect to each post-83 employee shall be an amount equal to the amount which would be deducted and withheld from the basic pay of such post-83 employee under paragraph (1) for such

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pay periods if such paragraph (1) were applicable to post-83 employees.

(b) Section 8334(c) of title 5, United States Code, relating to contributions, is amended—

(1) by striking out "employee or Member" and inserting in lieu thereof "employee, Member, or post-83 employee";

(2) by striking out in the table the following:

"7..... After December 31, 1969."

and inserting in lieu thereof the following:

"7..... January 1, 1970 to December 31, 1983.
"the corresponding total percentage under subsection (a)(1)..... After December 31, 1983.";

(3) by striking out in the table the following:

"7½..... After December 31, 1969."

and inserting in lieu thereof the following:

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"7½.....	January 1, 1970 to December 31, 1983.
"the corresponding total percentage under subsection (a)(1).....	After December 31, 1983.";

(4) by striking out in the table the following:

"8..... After December 31, 1969."

and inserting in lieu thereof the following:

"8.....	January 1, 1970 to December 31, 1983.
"the corresponding total percentage under subsection (a)(1).....	After December 31, 1983.";

(5) by striking out in the table the following:

"7½..... After December 31, 1974."

and inserting in lieu thereof the following:

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"7½.....	January 1, 1970 to December 31, 1983.
"the corresponding total percentage under subsection (a)(1).....	After December 31, 1983.";

(6) by striking out in the table the following:

"7.....	After December 31, 1970."

and inserting in lieu thereof the following:

"7.....	January 1, 1970 to December 31, 1983.
"the corresponding total percentage under subsection (a)(1).....	After December 31, 1983.";

and

(7) by inserting at the end of the table the following:

"Post-83 employee.....	0.....	After December 31, 1983".

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MAINTENANCE OF FUND FINANCIAL INTEGRITY

SEC. 212. (a)(1) Subchapter III of chapter 83 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 8349. Maintenance of Fund financial integrity

"(a) As soon as practicable after the date of the enactment of this section, the Office of Personnel Management shall prescribe regulations under which, effective for fiscal years following the date on which the regulations are prescribed, the amount to be contributed under section 8334(a)(3) of this title shall be equal to—

"(1) in the case of each post-83 employee, a percentage of basic pay based on the normal cost for benefits under this subchapter for post-83 employees, less the percentage specified in section 8334(a)(2), and

"(2) in the case of each employee or Member (other than a post-83 employee), a percentage of basic pay equal to (A) the percentage prescribed under paragraph (1) of this subsection, plus (B) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1954.

"(b)(1) At the end of each fiscal year for which the regulations prescribed under subsection (a) are effective, the Office shall notify the Secretary of the Treasury of the amount of the installment for such fiscal year needed to am-

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ortize, in 40 annual installments under the level percentage of pay method, the unfunded liability of the Civil Service Retirement and Disability System computed for the first fiscal year for which such regulations are effective. Before closing the accounts for each fiscal year for which such regulations are effective, the Secretary shall credit to the Fund as a Government contribution, out of any moneys in the Treasury of the United States not otherwise appropriated, an amount necessary to carry out the amortization under the preceding sentence.

"(2) At the end of each fiscal year for which the regulations prescribed under subsection (a) are effective, the Office shall notify the Secretary of the Treasury of the amount of the installment for such fiscal year which would be necessary to amortize, in 15 level annual installments, the net increase in the unfunded liability of the Civil Service Retirement and Disability System arising, since the end of the first fiscal year for which such regulations are effective, from amendments to this subchapter, experience gains and losses, and changes in actuarial assumptions. Before closing the accounts for each fiscal year for which such regulations are effective, the Secretary shall credit to the Fund as a Government contribution, out of any moneys in the Treasury of the United States not otherwise appropriated, an amount necessary to carry out the amortization under the preceding sentence.

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"(c) For purposes of this section, normal cost and unfunded liability shall be computed using the Entry Age Actuarial Cost Method and dynamic actuarial assumptions which reflect anticipated future changes in basic pay and any plan benefits which are automatically indexed. The enrolled actuary of the Civil Service Retirement and Disability System shall determine such costs and amounts on the basis of actuarial assumptions and techniques which are reasonably related to the experience of the plan and to reasonable expectations and which represent the actuary's best estimate of anticipated experience under the system.".

(2) The table of sections for chapter 83 of title 5, United States Code, is amended by inserting after the item relating to section 8348 the following new item:

"8349. Maintenance of Fund financial integrity.".

(b) Effective October 1 of the first fiscal year for which the regulations prescribed pursuant to section 8349(a) of title 5, United States Code (as added by this section) are effective, subsections (f) and (g) of section 8348 of such title are repealed.

PART C—INVESTMENT OF CONTRIBUTIONS AND DEDUCTIONS

INVESTMENT BOARD

SEC. 221. (a) Section 8348(c) of title 5, United States Code, relating to investment of Fund, is amended by insert-

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ing "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

"(2) There is established a board of trustees to be known as the Fund Investment Board (hereinafter in this subsection referred to as the 'Board'). The Board shall consist of (A) the Director of the Office of Personnel Management (or the Director's delegate), (B) the Secretary of the Treasury (or the Secretary's delegate), and (C) the Director of the Office of Management and Budget (or the Director's delegate). It shall be the function of the Board to determine, in active consultation with the Advisory Panel on Fund Investments, the interest rate (in accordance with this section) at which investments of the Fund are made.".

(b) Section 8348(d) of title 5, United States Code, is amended by striking out in the second sentence "equal to" and inserting in lieu thereof "not less than".

INVESTMENT ADVISORY PANEL

SEC. 222. Section 8348(c) of title 5, United States Code, as amended by section 221, is further amended by adding at the end thereof the following new paragraph:

"(3)(A) There is established as an independent establishment an Advisory Panel on Fund Investments (hereinafter in this paragraph referred to as the 'panel'). It shall be the function of the panel to advise and assist the Board, and the Federal Thrift Plan Board under section 8369 of this title, in carrying out its functions.

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"(B) The panel shall be composed of 7 members. One member shall be appointed by each member of the Board, and 4 members shall be appointed by the President. Members of the panel shall be appointed from among individuals generally recognized for their expertise in finance and investment generally and in private or governmental pension funds in particular.

"(C) Each appointment shall be for a term of 3 years, except that one of the original members shall be appointed for a term of 1 year, and another for a term of 2 years. A member appointed to fill a vacancy occurring before the end of the term of his predecessor shall serve for the remainder of that term. When the term of a member ends, he may continue to serve until his successor is appointed.

"(D) The President shall designate one of the members as Chairman.

"(E) The panel may secure from any Executive agency or military department information, suggestions, estimates, statistics, and technical assistance for the purpose of carrying out its functions. Each such Executive agency or military department shall furnish the information, suggestions, estimates, statistics, and technical assistance directly to the Committee on request of the panel.

"(F) On request of the panel, the head of any Executive agency or military department may detail, on a nonreimbur-

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sable basis, any of its personnel to assist the panel in carrying out its functions.

"(G) The Administrator of General Services shall provide administrative support services for the panel on a non-reimbursable basis.

"(H) Each member of the panel (other than a Federal employee) is entitled to pay at the daily equivalent of the annual rate of basic pay payable for Grade GS–18 of the General Schedule for each day he is engaged on work of the panel, and is entitled to travel expenses, including a per diem allowance, in accordance with section 5703(b) of this title.".

PART D—PRIMARY PROGRAM BENEFITS

REDUCTION FOR EARLY RETIREMENT

SEC. 231. Section 8339(h) of title 5, United States Code, relating to reduction for retiring before age 55, is amended by inserting "(1)" after "(h)" and by adding at the end thereof the following new paragraph:

"(2) Under regulations prescribed by the Director of the Office of Personnel Management, so much of the annuity computed under subsections (a) – (f) and (n) of this section of any post-83 employee as is attributable to service on or after January 1, 1984, is reduced by ⅙ of 1 percent for each full month the post-83 employee is under 65 years of age as of the date on which the annuity commences.".

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BENEFIT FORMULA TO BE 1.2 PERCENT PER YEAR FOR POST-83 EMPLOYEES

SEC. 232. Section 8339(a) of title 5, United States Code, relating to computation of annuity, is amended by adding at the end thereof the following: "The annuity of a post-83 employee retiring under this subchapter is computed under this section except that in the case of service as a post-83 employee after December 31, 1983, the annuity of the post-83 employee is computed by multiplying 1.2 percent of the post-83 employee's average pay by the post-83 employee's total service after such date.".

ELIMINATION OF MINIMUM ANNUITY FOR POST-83 EMPLOYEES

SEC. 233. Section 8345(f) of title 5, United States Code, relating to minimum annuities, is amended by adding at the end thereof the following:

"(4) The preceding provisions of this subsection shall not apply with respect to any annuity based on the service of a post-83 employee.".

SEPARATED EMPLOYEE'S LUMP-SUM CREDIT TO BE ROLLED-OVER INTO THRIFT PLAN

SEC. 234. Section 8342(a) of title 5, United States Code, relating to lump-sum credit payments, is amended—

(1) by striking out "is entitled to be paid the lump-sum credit" and inserting in lieu thereof "is entitled to have the lump-sum credit transferred to and de-

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posited in a thrift retirement account established pursuant to section 8363 of this title"; and

(2) by striking out "receipt of the payment" and inserting in lieu thereof "transfer and deposit of the payment".

OPTION FOR CERTAIN POST-83 EMPLOYEES TO TRANSFER THE VALUE OF THEIR DEFINED BENEFIT INTO THRIFT PLAN

SEC. 235. Section 8342 of title 5, United States Code, is amended by adding at the end thereof the following:

"(k)(1) Under regulations prescribed by the Office, a post-83 employee who—

"(A)(i) is separated from the service for at least thirty-one consecutive days; or

"(ii) is transferred to a position in which he is not subject to this subchapter and remains in such a position for at least thirty-one consecutive days;

"(B) files an application with the Office for the transfer and deposit of an amount under this subsection;

"(C) is not reemployed in a position in which he is subject to this subchapter at the time he files the application;

"(D) will not become eligible to receive an annuity within thirty-one days after filing the application; and

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"(E) has 10 years of service or less (all of which service was performed after December 31, 1983) at the time of filing the application,

is entitled to have an amount equal to the actuarial present value of such employee's accrued retirement benefits under this subchapter transferred to and deposited in a thrift retirement account established pursuant to section 8363 of this title.

"(2) The regulations prescribed under this subsection shall be consistent with the provisions of subsection (j), relating to notice requirements for any current or former spouse.

"(3) The transfer and deposit of an amount under this subsection voids all annuity rights under this subchapter based on the service on which such amount is based.".

COST-OF-LIVING ADJUSTMENT LIMITATION FOR POST-83 EMPLOYEES

SEC. 236. (a) Title 5, United States Code, is amended by inserting after section 8340 the following new section:

"§ 8340a. Cost-of-living adjustment of annuities for post-83 employees

"Effective after December 31, 1985, an annuity increase under subsection (b) or (c) of section 8340 of this title shall, in the case of any annuity payable from the Fund to a post-83 employee, or a survivor of such employee, be equal to 30 percent of the increase which would otherwise apply under such subsection (b) or (c), as the case may be.".

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(b) The analysis for chapter 83 of title 5, United States Code, is amended by inserting after the item relating to section 8340 the following new item:

"8340a. Cost-of-living adjustment of annuities for post-83 employees.".

BENEFIT LEVELING OPTION FOR POST-83 EMPLOYEES

SEC. 237. Section 8347 of title 5, United States Code, relating to administration, is amended by adding at the end thereof the following:

"(n) Notwithstanding any other provision of this subchapter, the Director shall, by regulation, provide an option under which any post-83 employee would be entitled to make an election at the time of retirement such that the adjusted amount of the annuity payable to the individual before an age (between ages 62 and 67 as designated by the individual) at which the individual would be eligible to receive benefits under title II of the Social Security Act is equal to (A) the estimated benefits such individual is to receive on and after such age under title II of the Social Security Act plus (B) an adjusted amount of annuity which is actuarially determined and payable on and after such age. In the case of disability retirement, the age referred to in the preceding sentence shall be the retirement age specified in section 216(l) of such Act. Such adjustments shall be designed to assure that the total annuity payments received by the annuitant from the Fund are the actuarial equivalent to that which the individual would receive in the absence of such option.".

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PART E—SURVIVOR BENEFITS

ELECTION OF SURVIVOR ANNUITY BY EMPLOYEES ELIGIBLE FOR DEFERRED ANNUITY

SEC. 241. (a) Section 8339(j) of title 5, United States Code, relating to election regarding spousal survivor benefits, is amended by adding at the end thereof the following new subsection:

"(3)(A) Under such regulations as the Office of Personnel Management shall prescribe within 180 days after the date of the enactment of this paragraph, any employee, post-83 employee, or Member separating from service with rights to a deferred annuity under section 8338 of this title may elect at the time of separation a reduced annuity and a survivor annuity under this paragraph for that individual's spouse. Any election under paragraph (1) shall be subject to any election made under this paragraph.

"(B) Under such regulations, if the individual electing under this paragraph dies, the surviving spouse is entitled to an annuity under this paragraph beginning at an age not less than age 62 in an amount equal to 50 percent of the individual's reduced annuity.

"(C) Under such regulations, the value of the reduced annuity of the individual who makes an election under this section and the value of the survivor annuity shall be the

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actuarial equivalent of the value of the deferred annuity (if no such election were made).".

(b) The amendment made by subsection (a) shall apply in the case of separations occurring after December 31, 1985.

COMPUTATION OF BENEFITS FOR SURVIVORS OF POST-83 EMPLOYEES

SEC. 242. (a) Section 8341 of title 5, United States Code, relating to survivor benefits, is amended by adding at the end thereof the following:

"(j)(1)(A) Except as provided in subparagraph (B) of this paragraph or paragraph (2) of this subsection, the annuity of any person who is a surviving child under this section based on the service of any post-83 employee shall be the amount otherwise payable under the preceding provisions of this section, reduced by the amount of any survivor benefit received under title II of the Social Security Act by such person (based on the death of such post-83 employee) for the same period.

"(B) Under regulations prescribed by the Director of the Office of Personnel Management, subparagraph (A) of this paragraph shall not reduce any annuity below the actuarial equivalent of the lump-sum credit (based on accumulated employee contributions) attributable to that annuity.

"(2) A surviving child shall not be eligible to receive any annuity under this section based on the service of a post-

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83 employee if none of the creditable service of such employee under this subchapter was performed before January 1, 1984.

"(k)(1) Except as provided in paragraph (2) or (3) of this subsection, the annuity of any person who is a surviving widow or widower under this section based on the service of any post-83 employee whose death occurred before retiring under this subchapter shall be reduced by the amount of any survivor benefit received under title II of the Social Security Act by such person for the same period.

"(2)(A) Paragraph (1) shall not apply in the case of any widow or widower described in subparagraph (C) of this paragraph.

"(B) Any annuity payable under subsection (d) of this section in the case of any such widow or widower shall be determined without regard to paragraph (1) or (2) of such subsection.

"(C) This paragraph applies with respect to the widow or widower of a post-83 employee if such employee satisfied the applicable age and service requirements for an annuity under section 8336 of this title as of the date of such employee's death.

"(3) Under regulations prescribed by the Director of the Office of Personnel Management, nothing in paragraph (1) or (2) of this subsection shall reduce any annuity below the actu-

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arial equivalent of the lump-sum credit (based on the accumulated employee contributions) attributable to that annuity.".

(b) The first sentence of subsection (d) of such section 8341 is amended by inserting "(and section 8339(h) of this title, in the case of a post-83 employee)" after "of this title".

PART F—DISABILITY ANNUITIES

ENTITLEMENT TO DISABILITY BENEFITS

SEC. 251. (a) Section 8337(a) of title 5, United States Code, relating to entitlement to disability benefits, is amended by striking out "employee" each place it appears and inserting in lieu thereof "post-83 employee or employee".

(b) Section 8337(a) of title 5, United States Code, is further amended by inserting after the second sentence the following new sentence: "If there is no such position in the employing agency, the post-83 employee shall be appointed to any civilian position in the Federal Government, located within a reasonable commuting distance from the last place the post-83 employee worked in such employing agency, in which the post-83 employee is able to render useful and efficient service, as determined under procedures prescribed by the Office and the basic pay for which is not less than 80 percent of the rate of basic pay for the position last held by the post-83 employee and shall not be considered disabled while able to render such service in such position. While a post-83 employee holds a position to which appointed under

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the preceding sentence, the rate of basic pay payable to such post-83 employee shall not be less than the rate of basic pay being earned by the post-83 employee in the former position.".

(c) Section 8337(a) of title 5, United States Code, is amended by striking out "preceding sentence" where it appears in the third sentence.

COMPUTATION OF DISABILITY ANNUITIES FOR POST-83 EMPLOYEES

SEC. 252. (a) Section 8339(g) of title 5, United States Code, is amended to read as follows:

"(g)(1) Except as provided in paragraph (3), the annuity of an employee or Member (other than a post-83 employee) retiring under section 8337 of this title is at least the smaller of—

"(A) 40 percent of his average pay; or

"(B) the sum obtained under subsections (a) through (c) or (n) of this section after increasing his service of the type last performed by the period elapsing between the date of separation and the date he becomes 60 years of age.

"(2)(A) Except as provided in subparagraphs (C) and (D) of this paragraph and paragraph (3) of this subsection, the annuity of a post-83 employee retiring under section 8337 of this title is, for any month, the amount computed under sub-

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paragraph (B)(i) or subparagraph (B)(ii), whichever is greater for that month.

"(B)(i) The amount computed under this clause is the lesser of—

"(I) 40 percent of the post-83 employee's average pay, except that such percentage shall be increased to 50 percent for any month for which such individual is entitled to disability benefits under section 223 of the Social Security Act; or

"(II) the sum which would be obtained under subsections (a) through (c) or (n) of this section by disregarding the last sentence of subsection (a) of this section, after increasing the post-83 employee's service of the type last performed by the period elapsing between the date of separation and the date such individual becomes 60 years of age, except that the percentage factor used in calculating such annuity shall be increased 10 percentage points in a month for which the individual is entitled to disability benefits under section 223 of the Social Security Act.

"(ii) The amount computed under this clause is equal to the annuity as otherwise computed under the preceding subsections of this section (and subsection (n)), except that such annuity shall be reduced by 1/6 of 1 percent for each full

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month the post-83 employee is under 65 years of age as of the date on which the annuity commences.

"(C) Effective as of the beginning of the month in which a post-83 employee attains the retirement age specified in section 216(l) of the Social Security Act, if as of immediately before such month such post-83 employee's annuity was equal to the amount determined under subparagraph (B)(i) and such employee was not then entitled to disability benefits under section 223 of the Social Security Act, the amount of such annuity shall be equal to the greater of—

"(i) the amount which would have been the amount of such post-83 employee's annuity as of immediately before such month (taking into account any applicable cost-of-living adjustments and disregarding any reduction under section 8337(f)(2)) if such annuity had been computed under subparagraph (B)(ii), or

"(ii) the excess of the amount which would have been the amount of such post-83 employee's annuity as of immediately before such month (taking into account any applicable cost-of-living adjustments and disregarding any reduction under section 8337(f)(2)) if such annuity had been computed under subparagraph (B)(i), over 12 times the amount which would be such post-83 employee's monthly old-age insurance benefit under title II of the Social Security Act for the month in

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which he attains the retirement age specified in section 216(l) of such Act if—

"(I) all of his service under this subchapter after December 31, 1983, were considered 'employment' for purposes of such title II and only so much of his remuneration for such service as constituted basic pay were considered 'wages' for purposes of such title II,

"(II) any period for which he is considered disabled under this subchapter were considered a 'period of disability' for purposes of section 215(b)(2)(B)(ii) of such Act (relating to computation base years), and

"(III) the 5-year reduction under section 215(b)(2)(A)(i) of such Act (relating to benefit computation years) were disregarded.

"(D) Effective as of the beginning of the month in which a post-83 employee attains the retirement age specified in section 216(l) of the Social Security Act, if as of immediately before such month such post-83 employee's annuity was equal to the amount determined under subparagraph (B)(i) and such employee was then entitled to disability benefits under section 223 of the Social Security Act, the amount of such annuity shall be equal to the amount of such post-83 employee's annuity as of immediately before such month.

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"(3) If an employee, Member, or post-83 employee retiring under section 8337 of this title is receiving retired pay or retainer pay for military service (except that specified in section 8332(c) (1) or (2) of this title) or Veterans' Administration pension or compensation in lieu of such retired or retainer pay, the annuity of that employee, Member, or post-83 employee shall be computed under subsection (a), (b), (c), or (n) of this section, as appropriate, excluding credit for military service from that computation. If the amount of the annuity so computed, plus the retired or retainer pay which is received, or which would be received but for the application of the limitation in section 5532 of this title, or the Veterans' Administration pension or compensation in lieu of such retired or retainer pay, is less than the annuity which would otherwise be payable under paragraph (1) or (2) of this subsection, an amount equal to the difference shall be added to the annuity payable under subsection (a), (b), (c), or (n) of this subsection, as appropriate.".

APPLICATION FOR SOCIAL SECURITY DISABILITY BENEFITS REQUIRED FOR POST-83 EMPLOYEES

SEC. 253. Section 8337(b) of title 5, United States Code, relating to applications for disability annuity, is amended by adding at the end thereof the following: "A claim may not be allowed under this section unless the post-83 employee involved has applied for disability benefits under title II of the Social Security Act or is exempt from such requirement

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under regulations prescribed by the Director of the Office of Personnel Management.".

OFFSET OF SOCIAL SECURITY DISABILITY ANNUITY FOR POST-83 EMPLOYEES

SEC. 254. Section 8337(f) of title 5, United States Code, relating to offset for workers compensation, is amended by inserting "(1)" after "(f)" and by adding at the end thereof the following:

"(2)(A) Under regulations prescribed by the Director of the Office of Personnel Management, the annuity of any post-83 employee under this section shall be reduced by the amount of any disability insurance benefit received under title II of the Social Security Act by such person for the same period. Such reduction shall not apply in the case of any person whose annuity is computed under section 8339(g)(2)(B)(ii), for any month after that person attains the retirement age specified in section 216(l) of such Act.

"(B) Such regulations shall provide that the adjustments under sections 8340 and 8340a of this title shall be computed after taking into account the reductions under this paragraph.

"(C) Any reduction under subparagraph (A) shall not reduce any annuity below the actuarial equivalent of the lump-sum credit (based on employee contributions) attributable to that annuity.".

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LIMITATION OF DISABILITY ANNUITY BASED ON EARNINGS AND FORMER PAY FOR POST-83 EMPLOYEES

SEC. 255. The last sentence of section 8337(d) of title 5, United States Code, relating to earning capacity, is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following new paragraph:

"(2) In the case of any annuitant (who was a post-83 employee) receiving disability benefits from the Fund and not receiving disability benefits under title II of the Social Security Act, under regulations prescribed by the Director of the Office of Personnel Management, the annuity under this section for any period shall be reduced (but not below zero) to the extent—

"(A) such annuity plus the amount of income earned by the annuitant (disregarding community property laws) for personal services performed by such annuitant during such period, exceeds

"(B) the final pay (or average pay, if higher) of the annuitant at the time the annuitant sustained the disability for which the annuity is paid.

For purposes of subparagraph (B), such regulations shall provide that the final pay of an individual shall be adjusted by the generally applicable cumulative pay adjustments which would have occurred if the employee had not sustained such disability.".

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REHABILITATION PILOT PROGRAM

SEC. 256. (a) Not later than one hundred and eighty days after the date of the enactment of this Act, the Director of the Office of Personnel Management shall establish a program—

(1) under which vocational rehabilitation and job placement counseling evaluations would be provided for individuals receiving or who would otherwise receive a disability annuity under section 8337 of title 5, United States Code, and who are not receiving or eligible to receive disability benefits under the Social Security Act, for the purposes of determining the individual's suitability for returning to that individual's occupation or other occupation the individual is qualified by reason of training, occupation, and experience;

(2) under which, in any case in which such an evaluation results in the recommendation of the implementation of a rehabilitation plan, such plan would be described and provided to such individual; and

(3) which applies to a sufficient number and sufficient types of individuals receiving such disability annuity in order to determine the cost effectiveness of implementing such program to all such individuals on a permanent basis.

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(b) The Director may provide for such program by contracting with the Secretary of Labor or with any private organization experienced in the provision of vocational rehabilitation services.

(c) The limitation under section 8337(d)(2) of title 5, United States Code (as added by section 255 of this Act), shall not apply to any annuitant who is participating in the vocational rehabilitation program under this section.

(d) The Director shall report to the Congress within 5 years after the date of the enactment of this Act on the program established under this section. Such report shall contain the Director's recommendations for legislative and administrative action he considers appropriate on the basis of the experience obtained under such program.

INSURANCE CARRIER COVERAGE FOR CERTAIN DISABILITIES

SEC. 257. Section 8337(a) of title 5, United States Code, relating to entitlement for disability annuities, is amended by inserting "(1)" after "(a)" and by adding at the end thereof the following:

"(2) The Director shall contract with one or more insurance carriers under which any post-83 employee, employee, or Member may purchase illness and accident insurance to provide long-term disability benefits in the event the individual is not able to meet the 5-year service requirement of paragraph (1) of this subsection.".

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TITLE III—AMENDMENTS TO ERISA, THE SOCIAL SECURITY ACT, AND THE INTERNAL REVENUE CODE OF 1954

COVERAGE UNDER ERISA AND RELATED INTERNAL REVENUE CODE PROVISIONS OF POSTAL SERVICE PLANS FOR EMPLOYEES NOT COVERED UNDER CIVIL SERVICE RETIREMENT

SEC. 301. (a) Section 3(32) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(32)) (relating to the definition of "governmental plan") is amended by adding at the end thereof the following new sentence: "The term 'governmental plan' does not include a pension plan established or maintained by the United States Postal Service for employees excluded from coverage under the Civil Service Retirement and Disability System.".

(b) Section 414(d) of the Internal Revenue Code of 1954 (relating to the definition of "governmental plan") is amended by adding at the end thereof the following new sentence: "The term 'governmental plan' does not include a pension plan established or maintained by the United States Postal Service for employees excluded from coverage under the Civil Service Retirement and Disability System.".

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COVERAGE UNDER TITLE II OF THE SOCIAL SECURITY ACT OF FEDERAL EMPLOYEES ELECTING TREATMENT AS POST-83 EMPLOYEES; EXEMPTION FROM WINDFALL BENEFIT REDUCTIONS FOR EMPLOYEES WITH TEN YEARS OF SERVICE

SEC. 302. (a)(1) Section 210 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"COVERAGE OF CERTAIN OTHERWISE EXCLUDED FEDERAL EMPLOYEES

"(r) The term 'employment' shall, notwithstanding the provisions of subsection (a), include service otherwise excluded under subsection (a)(5) for which remuneration is paid in months commencing after the date on which such individual irrevocably elects, pursuant to paragraph (23) of section 8331 of title 5, United States Code (as amended by section 201 of the Federal Annuity and Investment Reform Act of 1985), to be treated as a post-83 employee (within the meaning of such paragraph).".

(2) Section 3121 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(w) INCLUSION OF SERVICE BY CERTAIN OTHERWISE EXCLUDED FEDERAL EMPLOYEES.—For purposes of this chapter, the term 'employment' shall, notwithstanding the provisions of subsection (b), include service otherwise ex-

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cluded under subsection (b)(5) for which remuneration is paid in months commencing after the date on which such individual irrevocably elects, pursuant to paragraph (23) of section 8331 of title 5, United States Code (as amended by section 201 of the Federal Annuity and Investment Reform Act of 1985), to be treated as a post-83 employee (within the meaning of such paragraph).".

(b)(1) Section 215(a)(7) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(F) This paragraph shall not apply in the case of an individual if not less than 10 years of service performed by such individual is included in the term 'employment' by reason of an election referred to in section 210(r).".

(2) Section 215(d)(5) of such Act is amended, in the last sentence, by inserting "or (F) thereof" after "subparagraph (E)".

TITLE IV—MISCELLANEOUS PROVISIONS

RESPONSIBILITY FOR ADMINISTERING CERTAIN RETIREMENT PROGRAMS

SEC. 401. (a) Notwithstanding any other provision of law, the Director of the Office of Personnel Management shall be responsible for administering the retirement programs applicable to—

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(1) the United States Secret Service Uniformed Division,

(2) the United States Park Police,

(3) the United States Secret Service, and

(4) other uniformed police services of the Government (other than those comprised entirely of members of the armed forces).

(b) The Director of the Office of Management and Budget may make such incidental transfers of records, funds, personnel, and functions as may be necessary to carry out this section.

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